



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9691-2]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), notice is hereby given of a proposed settlement agreement to address a consolidated set of petitions for review filed by several parties in the United States Court of Appeals for the District of Columbia Circuit. Petitioners filed these petitions for review of an EPA rule that revised the National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines (the RICE NESHAP). Under the terms of the proposed settlement agreement, EPA agrees that by May 22, 2012, the Agency will sign a notice of proposed rulemaking that includes a proposal to revise the RICE NESHAP: (1) to require management practices for owners and operators of remote existing non-emergency spark-ignition 4-stroke engines above 500 horsepower located at area sources, and (2) to require owners and operators of such engines that are not located in remote areas to meet an equipment standard requiring installation of a catalyst to reduce emissions of hazardous air pollutants (HAP) and to conduct initial and annual testing. The notice for proposed rulemaking contemplated in the settlement agreement has already been signed. Further, under the agreement, if EPA signs a notice of final action no later than December 14, 2012, that promulgates in final form regulatory text that amends the RICE NESHAP and that implements substantially the same substance as set forth in Attachment A to the agreement, then Petitioners shall promptly file a

stipulation of dismissal of the petitions for review.

DATES: Written comments on the proposed settlement agreement must be received by [INSERT DATE 30 DAYS AFTER PUBLICATION DATE].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2012-0460, online at www.regulations.gov (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Michael Horowitz, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-5583; fax number (202) 564-5603; email address: horowitz.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

This proposed settlement agreement would potentially resolve petitions for judicial review filed in the U.S. Court of Appeals for the District of Columbia Circuit by the following petitioners: American Petroleum Institute (Doc. No. 10-1334); the Gas Processors Association (Doc. No. 10-1335); the Interstate Natural Gas Association of

America (Doc No. 10-1337); and Exterran Energy Solutions, L.P., et al., (Doc. No. 10-1338) (collectively referred to as "Petitioners"). Petitioners seek review of a rule promulgating standards that revised the National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines (the RICE NESHAP), 75 FR 51570 (Aug. 20, 2010).

Petitioners filed petitions for judicial review regarding several provisions of the final rule. Under the terms of the proposed settlement agreement, EPA states that it anticipates that, by May 22, 2012, the Agency will sign a notice of proposed rulemaking that includes a proposal to revise the RICE NESHAP: (1) to require management practices for owners and operators of remote existing non-emergency spark-ignition 4-stroke engines above 500 horsepower located at area sources, and (2) to require owners and operators of such engines that are not located in a remote location to meet an equipment standard requiring installation of a catalyst to reduce emissions of HAP and to conduct initial and annual testing. The notice for proposed rulemaking contemplated in the settlement agreement has already been signed and is available on the Agency's website.

http://www.epa.gov/ttn/oarpg/t3/fr_notices/rice_neshap_recon_prop_052212.pdf

Further, under the agreement, if EPA signs a notice of final action no later than December 14, 2012, that promulgates in final form regulatory text that amends the RICE NESHAP and implements substantially the same substance as set forth in Attachment A to the agreement, then Petitioners shall promptly file a stipulation of dismissal of the petitions for review. Under the proposed settlement agreement, if EPA does not take action in accordance with the terms of the agreement, the Petitioners' sole remedy under

the agreement is the right to request that the Court lift the stay of proceedings and continue with the adjudication of Petitioners' challenge of the RICE NESHAP rule.

Petitioners have no further remedy under the agreement.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional information about commenting on the proposed settlement agreement.

A. How Can I Get A Copy Of the Settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2012-0460) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use the www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your

name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 14, 2012.

Lorie Schmidt,
Associate General Counsel.

